



## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-130]

#### **Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing a countervailing duty (CVD) order on certain walk-behind lawn mowers and parts thereof (lawn mowers) from the People's Republic of China (China). In addition, Commerce is amending its final determination with respect to lawn mowers from China to correct a ministerial error.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Tyler Weinhold or Moses Song at (202) 482-1121 or (202) 482-7885, respectively. AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### Background

On May 20, 2021, Commerce published its affirmative final determination that countervailable subsidies are being provided to producers and exporters of lawn mowers from China.<sup>1</sup> Respondent company, Ningbo Daye Garden Machinery Co., Ltd. (Ningbo Daye) submitted a timely allegation on the record that Commerce made a ministerial error in the final

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<sup>1</sup> See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 86 FR 27379 (May 20, 2021) (*Final Determination*), and accompanying Issues and Decision Memorandum.

CVD determination on lawn mowers from China.<sup>2</sup> Section 705(e) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.224(f) define ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which Commerce considers ministerial. We reviewed the allegation and determined that we made a ministerial error in the final CVD determination on lawn mowers from China. *See* “Amendment to the Final Determination” section below for further discussion.

On July 6, 2021, the ITC notified Commerce of its affirmative final determination that, pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Act, an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from China.<sup>3</sup>

#### Scope of the Order

The products covered by this order are lawn mowers from China. For a complete description of the scope of this order, *see* the appendix to this notice.

#### Amendment to the Final Determination

On May 24, 2021, Ningbo Daye submitted a timely ministerial error allegation regarding the *Final Determination*.<sup>4</sup> Commerce reviewed the record and on June 17, 2021, issued a memorandum acknowledging that the error alleged by Ningbo Daye constituted a ministerial error within the meaning of section 705(e) of the Act and 19 CFR 351.224(f).<sup>5</sup> Specifically, Commerce found that it had incorrectly transcribed certain data pertaining to Ningbo Daye’s outstanding loans, which resulted in an error in the subsidy rate calculation. Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the correction of the ministerial error described in the Ministerial Error Memorandum. Based on the correction, the

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<sup>2</sup> *See* Ningbo Daye’s Letter, “Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China, Case No. C-570-130: Ningbo Daye’s Ministerial Error Comments,” dated May 24, 2021 (Ministerial Error Allegations).

<sup>3</sup> *See* ITC’s Letter, “Notification of ITC Final Determination,” dated July 6, 2021 (ITC Notification Letter).

<sup>4</sup> *See* Ministerial Error Allegations.

<sup>5</sup> *See* Memorandum, “Countervailing Duty Investigation of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People’s Republic of China: Allegation of Ministerial Error in the Final Determination,” dated June 17, 2021 (Ministerial Error Memorandum) at 1-2.

subsidy rate for Ningbo Daye changed from 14.17 percent to 13.67 percent *ad valorem*. Because the all-others rate is calculated using a weighted average of the individual estimated subsidy rates calculated for mandatory respondents, including Ningbo Daye's *ad valorem* subsidy rate, the all-others rate also changed from 16.29 percent to 15.95 percent.

#### Countervailing Duty Order

On July 6, 2021, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of lawn mowers from China.<sup>6</sup> Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Because the ITC determined that imports of lawn mowers from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of CVDs.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, CVDs for all relevant entries of lawn mowers from China which are entered, or withdrawn from warehouse, for consumption on or after October 30, 2020, the date of publication of the *Preliminary Determination*,<sup>7</sup> but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described in the "Provisional Measures" section of this notice.

#### Continuation of Suspension of Liquidation and Cash Deposits

Except as noted in the "Provisional Measures" section of this notice, in accordance with section 706(a)(1) of the Act, Commerce will instruct CBP to continue to suspend liquidation on

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<sup>6</sup> See ITC Notification Letter.

<sup>7</sup> See *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 85 FR 68848 (October 30, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

all relevant entries of lawn mowers from China. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the net countervailable subsidy rates indicated in the table below. Accordingly, effective on the date of publication in the *Federal Register* of the notice of the ITC's final affirmative injury determination, CBP must require, at the same time as importers would deposit estimated normal customs duties on subject merchandise, a cash deposit equal to the rates listed in the table below.

Company	Subsidy Rate (percent)
Zhejiang Amerisun Technology Co., Ltd.	20.98
Ningbo Daye Garden Machinery Co., Ltd. <sup>8</sup>	13.67
All Others	15.95

### Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months.

Commerce published the *Preliminary Determination* on October 30, 2021.<sup>9</sup>

The provisional measures period, beginning on the date of publication of the *Preliminary Determination*, ended on February 26, 2021. Therefore, in accordance with section 703(d) of the Act and our practice, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to CVDs, unliquidated entries of lawn mowers from China entered, or withdrawn from warehouse, for consumption after February 26, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of

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<sup>8</sup> Commerce determined that, pursuant to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between Ningbo Daye Garden Machinery Co. Ltd. and Zhejiang Jingaye Holdings Ltd.

<sup>9</sup> See *Preliminary Determination*.

publication of the ITC's final affirmative injury determination in the *Federal Register*.

Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the *Federal Register*.

Notification to Interested Parties

This notice constitutes the CVD order with respect to lawn mowers from China pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

This amended final determination and order is issued and published in accordance with sections 705(d) and 706(a) of the Act and 19 CFR 351.211(b) and 351.224(e).

Dated: July 8, 2021.

James Maeder,  
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

## **Appendix**

### **Scope of the Order**

The merchandise covered by this order consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of this order covers certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of this order are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts. These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission Safety Standard For Walk-Behind Power Lawn Mowers under 16 CFR Part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR Part 1205 remain subject to the scope of this order.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR part 1054 or other parts of subchapter U remain subject to the scope of this order.

For purposes of this order, an unfinished and/or unassembled lawn mower means, at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of this order. The inclusion in a third country of any components other than the mower subassembly does not remove the lawn mower from the scope. Lawn mowers that meet the physical description above are covered by the scope of this order regardless of the origin of its engine, unless such lawn mowers contain an engine that is covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 99cc and up to 225cc, and parts thereof (small vertical engines) from China. If the antidumping or countervailing duty orders on small vertical engines from China are terminated, the lawn mowers containing small vertical engines from China will be covered by the scope of this order.

The lawn mowers subject to this order are typically at subheading: 8433.11.0050. Lawn mowers subject to this order may also enter under Harmonized Tariff Schedule of the United States (HTSUS) 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under this order is dispositive.

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